

PROB. 12B  
(7/93)

ORIGINAL

United States District Court

for the

DISTRICT OF HAWAII

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

APR 12 2007

Ag

at 10 o'clock and 45 min A M  
SUE BEITIA, CLERK

**Request for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**  
(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: FREDERICK BORJA

Case Number: CR 03-00348HG-02

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor  
Chief U.S. District Judge

Date of Original Sentence: 4/8/2004

Original Offense: Count 1: CONSPIRACY TO ENGAGE IN BANK FRAUD, in violation of 18 U.S.C. § 371, a Class D felony

Count 12: BANK FRAUD, in violation of 18 U.S.C. § 1344, a Class B felony

Count 21: POSSESSION OF COUNTERFEITED SECURITIES, in violation of 18 U.S.C. § 513, a Class C felony

Original Sentence: Thirty-five (35) months imprisonment as to each of Counts 1, 12, and 21, with all terms to be served concurrently; followed by three (3) years of supervised release as to Counts 1 and 21 and five (5) years of supervised release as to Count 12, with all terms to be served concurrently and with the following special conditions:  
1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant is prohibited from possessing any illegal or dangerous weapons; 3) That the defendant provide the Probation Office and the Financial Litigation Unit of the U.S. Attorney's Office access to any requested financial information to include submitting to a periodic debtor's examination as directed by the Probation Office; 4) That the defendant is prohibited from incurring credit charges and lines of credit without the approval of the Probation Office; and 5) That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable

time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition.

Type of Supervision: Supervised Release      Date Supervision Commenced: 2/17/2006

### PETITIONING THE COURT

[X] To modify the conditions of supervision as follows:

Mandatory Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision.

### CAUSE

On 2/17/2006, the subject began his term of supervision under the U.S. Probation Office, District of Hawaii. During his processing, the subject was referred for substance abuse treatment and random drug testing at Freedom Recovery Services, Inc. (FRS), Honolulu, Hawaii. On 8/30/2006, he completed individual and group counseling sessions and was continued on periodic drug testing. However, the subject failed to submit to drug testing on 10/11/2006 and 12/16/2006. In both instances, the subject subsequently reported to the U.S. Probation Office and submitted urine specimens that tested negative for illicit substances.

On 2/28/2007, the subject completed the FRS 1-year drug aftercare program. Pursuant to U.S. vs. Stephens, the Violent Crimes Control Act (VCCA) testing condition imposed at sentencing limits the Probation Office to three non-treatment related drug tests. In order to ensure that the subject does not reinvolve himself in substance abuse, the recommended modification of his VCCA condition will enable the Probation Office to monitor the subject throughout his term of supervision. The subject has consented to the modification of his VCCA condition.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject also agrees to the modification of the conditions of supervised release. The

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subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



CARTER A. LEE  
U.S. Probation Officer

Approved by:



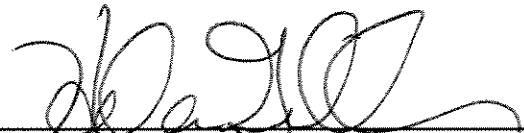
PETER D. YOSHIHARA  
Supervising U.S. Probation Officer

Date: 4/9/2007

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THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above  
☐ Other

  
\_\_\_\_\_  
HELEN GILLMOR  
Chief U.S. District Judge

4.10.07  
\_\_\_\_\_  
Date

PROB 49  
(5/96)

## United States District Court

District of Hawaii

### Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

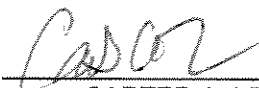
I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

- ☐ To extend the term of supervision for years, for a total term of years.  
☒ To modify the conditions of supervision as follows:

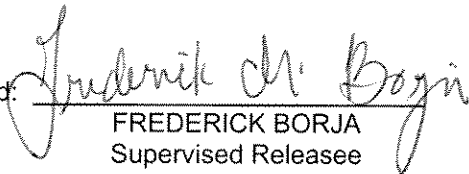
Mandatory Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of the commencement of supervision and at least two drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision.*

Witness:



CARTER A. LEE  
U.S. Probation Officer

Signed:



FREDERICK BORJA  
Supervised Releasee

4/15/07

Date